

REMARKS

Review and reconsideration of the non-final Office Action dated August 20, 2003 is respectfully requested in view of the above amendments and the following remarks.

Claims 1-21 are pending. Responsive to the pending restriction requirement, Applicants affirm their telephonic provisional election of the claims of Group II (claims 13-21) with traverse. Accordingly, claims 1-12 are withdrawn.

The restriction requirement is traversed for the following reasons. The Examiner's position is that the inventions corresponding to Groups I and II are allegedly distinct on the grounds that the fragrance of Group II could be used in a materially different process, such as in a method of cleaning hard surfaces. Claim 1 is amended herein to incorporate certain of the limitations of Claims 4 and 6, and Claim 13 is amended to include certain of the limitations of Claim 15. As a result of these amendments, Groups I and II have become interconnected. Applicants respectfully assert that, *inter alia*, the recitation that at least 60% of said fragrance ingredients have a relative fabric affinity value (y) of at least 4, and the recitation of the mathematical equation for determining y , mean that the claims as amended herein have become more closely intertwined such that they correspond to a single invention.

The claims as amended are thus so closely related that it would not be burdensome on the Examiner to examine all of the claims: a novelty search of Group I should also satisfy the Examiner with respect to Group II without additional effort. Accordingly, the indulgence of the Examiner to also examine the claims of Group I in this application is respectfully requested.

Rejection under 35 U.S.C. §102(b)

Claims 13-21 stand rejected as being allegedly anticipated by Bacon et al. (U.S. 5,500,138; herein "Bacon"). Applicants respectfully assert that the amendments to the claims herein render this rejection moot.

All of the rejected claims depend indirectly or directly from Claim 13. Applicants assert that Bacon does not teach all of the elements of Claim 13, as amended herein, and that therefore Bacon cannot anticipate Claim 13 or any of the rejected dependent claims.

Bacon teaches rinse-added fabric softening compositions for use in cleaning systems using as solvent, water, C₁₋₄ monohydric alcohol, C₂₋₆ polyhydric alcohol, propylene carbonate, or liquid polyethylene glycols (col. 3, lines 40-55, and Claim 1(D)). Bacon does not teach or suggest the liquid CO₂ cleaning system of Claim 13 (and withdrawn Claim 1), as amended herein.

Bacon teaches that suitable enduring perfumes for use in cleaning systems using certain solvents other than CO₂ may be selected on the basis of ClogP and boiling point measurements. In contrast, Claim 13 of the present application, as amended, is directed to selected of fragrance ingredients that are substantive in a liquid CO₂ system according to their relative fabric affinities (y) as defined in Claim 13, wherein at least 60% of the compounds thus selected have a relative fabric affinity of at least 4. Bacon does not teach or suggest enduring perfumes suitable for use in a liquid CO₂ cleaning system. Bacon is incapable of doing so because Bacon neither teaches substantivity in liquid CO₂, nor its measurement or prediction. As is shown in Figs. 1-3 of the present application, the method for fragrance selection taught by Bacon is simply not useful for selecting substantive fragrance

ingredients that are substantive in a liquid CO₂ system. Even if Bacon were by chance to recite, among a long list of fragrances, a fragrance ingredient that happens to have $y > 4$, Applicants assert that this cannot alone anticipate Claim 13, because Bacon teaches fragrances for a completely different purpose.

Accordingly, Applicants respectfully request that the rejection of Claims 13-21 under 35 U.S.C. §102(b) over Bacon be withdrawn.

Rejection in the alternative under 35 U.S.C. §103(a)

Claims 13-21 stand rejected as being allegedly rendered obvious by Bacon. Applicants respectfully assert that the amendments to the claims herein render this rejection moot.

For the reasons given above, Applicants respectfully assert that Bacon does not teach all of the elements of Claim 13, as amended, and that therefore Bacon alone cannot sustain a *prima facie* case of obviousness.

Applicants further assert that one of ordinary skill would find no motivation in Bacon to modify its teachings to arrive at the presently claimed invention. Specifically, Bacon teaches that ClogP and boiling point are good predictors of substantivity in cleaning systems using certain solvents other than CO₂. Bacon does not teach or suggest that its methods are not useful in a liquid CO₂ system. Even assuming that the inadequacy of the method of selection taught by Bacon as applied to liquid CO₂ cleaning systems were discovered by one of skill in the art, Applicants assert that there is no teaching in Bacon that would suggest a better approach, and certainly no teaching that would render obvious either the parameter (y) or the desirability of 60% of the fragrance ingredients having a y -value of at least 4, as recited in the present claims. Further,

even if Bacon does teach that the composition of the fragrance may be varied, it provides no guidance as to how this may be achieved for a liquid CO₂ system. For this reason, one of ordinary skill would have had no reasonable expectation of success in modifying the teaching of Bacon to arrive at the presently claimed invention.

Finally, Applicants note that, with respect to unamended Claim 13, the Examiner urges that where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation. Applicants assert that, with respect to amended Claim 13, it would not require merely routine experimentation to arrive at the compositions of Claim 13 beginning with the teaching of Bacon. The present inventors have identified a previously unrecognized parameter (y) that, unlike the teaching of Bacon (see Figs 1-3 of the present specification), identifies fragrance systems suitable for use in a liquid CO₂ system. Through extensive experimentation and inventiveness, the present inventors have produced a result-effective variable for this purpose where none was previously known. The fabric affinity parameter (y) was previously unrecognized by those of ordinary skill as a result-effective variable (i.e. a variable that achieves a recognized result - the identification of fragrance systems suitable for use in a liquid CO₂ system). Only after a parameter is recognized as a result-effective variable can the determination of its optimum or workable ranges be considered routine experimentation. MPEP 2144.05(II)(B).

Accordingly, Applicants respectfully request that the rejection of Claims 13-21 under 35 U.S.C. §103(a) over Bacon be withdrawn.

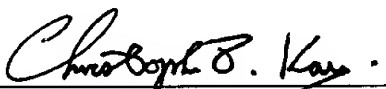
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AMENDMENT A

ATTORNEY DOCKET: 3968.037

As there are no further rejections, favorable consideration and early issuance of the Notice of Allowance is respectfully requested. Should any points remain that the Examiner considers may be addressed by telephone, the Examiner is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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Date: **December 19, 2003**

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CERTIFICATE OF MAILING AND AUTHORIZATION TO CHARGE

I hereby certify that the foregoing AMENDMENT A for U.S. Application No. 09/915,716 filed July 26, 2001, was deposited in first class U.S. mail, postage prepaid, addressed: Attn: Mail Stop:_____, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on **December 19, 2003**.

The Commissioner is hereby authorized to charge any additional fees, which may be required at any time during the prosecution of this application without specific authorization, except for the issue fee, or credit any overpayment, to Deposit Account No. 16-0877.

Christopher J. Kay

Name of Person Signing Certification

Christopher J. Kay

Signature

12/19/2003

Date